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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/741,741

12/21/2000

Sture Roos

2483-26

5607

7590

11/24/2004

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EXAMINER

BAYARD, EMMANUEL

ART UNIT

PAPER NUMBER

2631

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/741,741

Applicant(s)

ROOS, STURE

Examiner

Emmanuel Bayard

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2631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 July 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 7-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

This is in response to amendment filed on 7/22/04 in which claims 1-3 and 7-22 are pending. The applicant's amendments have been fully considered but they moot based on the new ground of rejection therefore this case is made final.

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 17 recites the limitation "the data connection and the voice connection" in line 1. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 7 is rejected under 35 U.S.C. 102(e) as being anticipated by McHale et al U.S. patent No 6,385,203 B2.

As per claim 7, McHale et al teaches a method for use in a telecommunication system for providing access to telecommunication services to subscribers at user terminals each of which being separately connected to at least one access point, via high speed modems and a communication network, the at least one access point having high speed modems, comprising the steps of: transmitting a signal from an user access interface (see fig.1 element 24) including a user terminal identity to a controller (see fig.2 element 80 and col.5, lines 1-37 and col.8, lines 11-20); selecting is the same as the claimed (searching), by the controller, for an available connection path for the user access interface at an access point (see col.8, lines 21-31 and col.9, lines 18-50 and col.12, lines 3-25); creating, by the controller, a bi-directional high speed data transmission path between the user terminal and the at least one access point (see col.6, lines 45-47 and col.9, lines 25-30); and establishing is the same as the claimed (activating), by the controller (80), the transmission path between the user terminal and the at least one access point (see col.8, lines 21-31 and col.12, lines 7-25).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-3 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over McHale et al U.S. patent No 6,385,203 B2 in view of Bremer et al U.S. Patent No 6,546,090 B1.

As per claims 1 and 8, McHale et al discloses an apparatus in a telecommunication system for providing access to telecommunication services to subscribers at user terminals (10, 20), each of which being separately connected to at least one access point (30, 60) via high speed modems (12, 22) and a communication network (24), the at least one access point (30, 60) comprising high speed modems, characterized in that: first high speed modems (see fig.1 elements 30 and col.5, lines 12-25) associated with the user terminals (see fig.1 elements 22); a second high speed modems (see fig.2 element 74) at station side (see fig.1 element 14) of the communication network are provided with a switching functionality (see fig.2 element 70 and col.5, lines 43-67 and col.8, lines 48-67); and a control means (see fig.2 element 80) is adapted to switch transmission paths of established connections between user terminals (see fig.1 elements 22) and the at least one access point if necessary, so as to guarantee at least one connection.

However McHale does not teach a first high-speed modem having a switching functionality.

Bremer teaches a first high-speed modem (see figs. 2, 4 element 20 and col.1, line 30 and col.7, lines 35, 48) having a switching functionality (see fig.5 element 110 and col.10, lines 47-67 and col.11, lines 22-45).

It would have been obvious to one of ordinary skill in the art to implement the switching of Bremer into McHale as to control or monitor OFF-Hook and ON-Hook states of the local loop as taught by Bremer (see col.10, lines 46-67).

As per claim 2, McHale et al does teach an access means is provided with a second modem enabling initial installation with a control means (see fig.2 element 80) to monitor the installation and establish a connection (see col.6, lines 26-42 and col.23, lines 64-67).

As per claim 3, the control means (see fig.2 element 80) is adapted to retrieve subscriber information to individualize the established connection (see col.9, lines 1-40).

As per claims 9-10, McHale does teach a pool of filters connected to the station side (see fig.5 elements 170 and col.13, lines 42-43 and col.18, lines 16-19).

As per claim 11, McHale et al does and Bremer in combination would teach a management system to process retrieved additional user information as accurately monitor the status of the local loop.

5. Claims 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over McHale et al U.S. patent No 6,385,203 B2 in view of Bremer et al U.S. Patent No 6,546,090 B1 and in further view of Duffie et al U.S. patent No 6,594,343 B1.

As per claims 12 and 18, McHale et al teaches an apparatus for use in a communication system for providing access to telecommunication services comprising: a user terminal operable by a subscriber (see fig.1 element 12 and col.4, lines 56-67) for receiving telecommunication services a net terminal coupled between the user terminal and an access point associated with a communications network including a first

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high speed, broadband modem, a second, lower speed, narrowband modem (see fig.1 elements 30 and col.5, lines 13-22 and col.7, lines 11-15); the access point (see figs.1-2 element 58) including one or more high speed, broadband modems, one or more lower speed, narrowband modems (see fig.2 element 74) and switching circuitry (see fig.2 element 70), different from the first switching circuitry, selectively controllable to support a connection with the user terminal via the communication network using one of the broadband modems or one of the narrowband modems; and a controller (see figs. 2-3 element 80) for controlling switching circuitry to support the connection.

However McHale does not teach a first switching circuitry selectively controllable to direct signals to and from the user terminal via the communications network using the first modem or the second modem and a controller for controlling the first and second switching circuitry to support the connection.

Bremer teaches a first switching circuitry (see fig.5 element 110 and col.10, lines 47-67 and col.11, lines 22-45) selectively controllable to direct signals to and from the user terminal via the communications network using the first modem or the second modem (see figs. 2, 4 element 20 and col.1, line 30 and col.7, lines 35, 48).

It would have been obvious to one of ordinary skill in the art to implement the switching of Bremer into McHale as to control or monitor OFF-Hook and ON-Hook states of the local loop as taught by Bremer (see col.10, lines 46-67).

However McHale and Bremer in combination do not teach a controller for controlling the first and second switching circuitry to support the connection.

Duffie et al teaches and a controller (see figs.6-8 element 100) for controlling the first and second switching circuitry (see figs.6-8 elements 102a and 102c) to support the connection.

It would have been obvious to one of ordinary skill in the art to implement the teaching of Duffie into McHale and Bremer as to monitor loop qualification, troubleshooting and voice portion of the loop as taught by Duffie (see col.5, lines 43-47).

As per claim 13, McHale, does teach an XDSL modem and a modem that supports PSTN connection (see col.5, lines 44, 61 and col.6, lines 28).

As per claims 14 and 19 McHale, Bremer and Duffie in combination would teach the controller to control the first and second switching circuitry to select the second modem and the one narrowband as to monitor loop qualification, troubleshooting and voice portion of the loop as taught by Duffie (see col.5, lines 43-47).

As per claims 15 and 20, McHale, Bremer and Duffie in combination would teach the controller to regulate the first and second switching circuitry based on detection of one or more predetermined conditions as to monitor loop qualification, troubleshooting and voice portion of the loop as taught by Duffie (see col.5, lines 43-47).

As per claims 16 and 21, McHale, Bremer and Duffie in combination would teach the controller is configured to establish the connection using the second modem and the narrowband modem and to control the first and second switching circuitry to select the second modem and the one narrowband as to monitor loop qualification, troubleshooting and voice portion of the loop as taught by Duffie (see col.5, lines 43-47).



As per claims 17 and 22, McHale, Bremer and Duffie in combination would teach the data connection and the voice connection are established and supported in parallel with the user terminal using the first and second modems and the one narrowband as to monitor loop qualification, troubleshooting and voice portion of the loop as taught by Duffie (see col.5, lines 43-47).

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hoff et al U.S. patent No 5,978,373 teaches a wide area network.

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Kostan et al U.S. Patent No 6,396,911 B1 teaches a method and apparatus for efficient improved data.

Scott U.S. Patent No 6,470,046 B1 teaches an apparatus and method for a combined DSL and voice system.

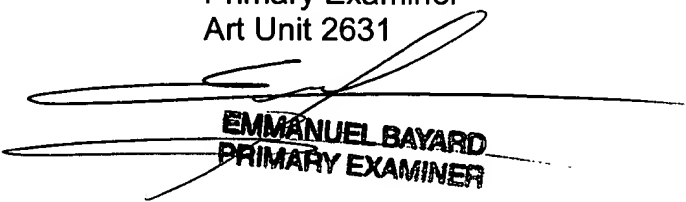
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel Bayard whose telephone number is 571 272 3016. The examiner can normally be reached on Monday-Friday (3:PM-10:PM) Alternate Friday off.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Emmanuel Bayard  
Primary Examiner  
Art Unit 2631

11/22/04



**EMMANUEL BAYARD**  
**PRIMARY EXAMINER**